

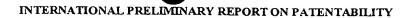
## **PCT**

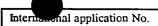
# INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

04 FEB 2005

Applicant's or agent's file reference					
A2462PC FOR FURTHER ACTION See Form PCT/IPEA/416					
International application No.	International filing date (day/month/year)	Priority date (day/month/year)			
PCT/FI 2003/000590	05.08.2003	05.08.2002			
International Patent Classification (IPC) o		103.08.2002			
C10L 1/18	· · · · · · · · · · · · · · · · · · ·				
Applicant					
Arizona Chemicals et al					
This report is the international pre Authority under Article 35 and tra	liminary examination report, established by the	is International Preliminary Examining			
2. This REPORT consists of a total of	Authority under Article 35 and transmitted to the applicant according to Article 36.  2. This REPORT consists of a total of 6 sheets, including this cover sheet.				
This report is also accompanied by	ANNEXES, comprising:				
a. (sent to the applicant	a. (sent to the applicant and to the International Bureau) a total of 4 sheets, as follows:				
sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).					
sheets which s	supersede earlier sheets, but which this Author	ity considers contain an amendment that goes			
ocyona me ans	beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.				
b. (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s))					
. containing a sequence listing and/or tables related thereto in computer					
readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).					
4. This report contains indications relating to the following items:					
	the report				
Box No. II Priority	report				
	blinkmant of a line at				
	ablishment of opinion with regard to novelty, in	nventive step and industrial applicability			
	unity of invention				
Box No. V Reasoned	d statement under Article 35(2) with regard to lity; citations and explanations supporting suc	novelty, inventive step or industrial			
Box No. VI Certain d	ocuments cited	a statement			
Box No. VII Certain d	efects in the international application				
Box No. VIII Certain o	bservations on the international application				
Date of submission of the demand	Date of completion of	Estria manada			
	Date of completion of	or mis report			
03.03.2004	15 11 0001				
Name and mailing address of the IPEA/SE		15.11.2004			
Patent- och registreringsverket	Authorized officer				
Box 5055 S-102 42 STOCKHOLM					
Facsimile No. +46 8 667 72 88		Yvonne Siösteen/EK			
Form PCT/IPEA/409 (cover sheet) (January	Telephone No. +46	8 782 25 00			





PCT/FI 2003/000590

Box	No. I	Ba	sis of the report	
1.	1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.			
	This report is based on a translation from the original language into the following language , which is the language of a translation furnished for the purposes of:			nguage,
			international search (under Rules 12.3 and 23.1(b))	
			publication of the international application (under Rule 12.4)	
			international preliminary examination (under Rules 55.2 and/or 55.3)	
2.	With regard to the elements of the international application, this report is based on (replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report):			
			rnational application as originally filed/furnished	
	$\boxtimes$		cription:	
			1-16	as originally filed/furnished
		pages*		
	$\boxtimes$	the cla		
		pages		as originally filed/furnished
		pages*	as amended (together	with any statement) under Article 19
				04.10.2004
		pages*		
		the dra	wings:	
		pages		as originally filed/furnished
		pages*		
		pages*		····
		a seque	ence listing and/or any related table(s) - see Supplemental Box Relating to S	equence Listing.
3.		The an	nendments have resulted in the cancellation of:	
		Ш	the description, pages	
			the claims, Nos.	· · · · · ·
			the drawings, sheets/figs	
			the sequence listing (specify):	e .
			any table(s) related to the sequence listing (specify):	
4.		This remade,	sport has been established as if (some of) the amendments annexed to this since they have been considered to go beyond the disclosure as filed, as in ).	s report and listed below had not been dicated in the Supplemental Box (Rule
			the description, pages	
			the claims, Nos.	
			the drawings, sheets/figs	
			the sequence listing (specify):	
			any table(s) related to the sequence listing (specify):	
* If item 4 applies, some or all of those sheets may be marked "superseded."				



International application No.

PCT/FI 2003/000590

Box No.	. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability		
The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:			
	the entire international application		
$\boxtimes$	claims Nos. 15, 16, 27		
becau	ise:		
	the said international application, or the said claims Nos.  relate to the following subject matter which does not require an international preliminary examination (specify):		
$\boxtimes$	the description, claims or drawings (indicate particular elements below) or said claims Nos. 15, 16, 27 are so unclear that no meaningful opinion could be formed (specify):		
are comext the mea com	cims 15,16 and 27 relate to esters and their use. The esters of characterized by being produced from the fatty acid mposition of claim 1. Claims 15 and 16 relate to an exemely large number of possible compounds. Support within the meaning of Article 6/PCT and/or disclosure within the uning of Article 5 PCT is not to be found for any such mpounds. In the present case, the claims lack support, and application lacks disclosure. Thus, no meaningful opinion possible for claims 15,16 and 27.		
	the claims, or said claims Nos are so inadequately supported by the description that no meaningful opinion could be formed.		
	no international search report has been established for said claims Nos.		
	the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:		
	the written form has not been furnished		
	does not comply with the standard		
	the computer readable form has not been furnished		
	does not comply with the standard the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in the Annex C-bis of the Administrative Instructions.		
	See Supplemental Box for further details.		

### INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

Intern. al application No.
PCT/FI 2003/000590

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement 1. Statement Novelty (N) Claims 1-14,17-26,28-32 Claims Inventive step (IS) Claims 1-14,17-26,28-32 YES Claims Industrial applicability (IA) Claims 1-27 YES Claims

2. Citations and explanations (Rule 70.7)

This opinion is based on the amended claims of 04.10.2004.

The claimed invention relates to a fuel additive consisting of a fatty acid composition having improved low temperature stability and a cloud point below 4 degrees Celsius. The composition is characterized by comprising a high content of unsaturated fatty acids from tall oil and a low content of saturated fatty acids, especially a low content of C18;0, C17;0 and C16;0 and a high content of C18;1, C18;2 and C18;3. It was found that especially C18;3 fatty acids affect the low temperature properties in a beneficial way.

The following documents are considered relevant:

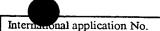
D1: EP 1209215

D2: JAOCS, vol.73.no.12,1996, R.O. Dunn et al, pages 1719-1727.

D1 relates to low-temperature stabilized additives for fuel. It comprises tall oil fatty acid compositions comprising a mixture of saturated and unsaturated fatty acids and a sulphur content of up to 0.05% by weight. The proportion of saturated fatty acids is preferably less than 10% by weight and at least 90% of the constituents consist of unsaturated fatty acids (see page 3, paragraph 0019). A lot of examples of fatty acid compositions are given which have a cloud point of between -27 and -37 degrees Celsius (see page 19, table 2). For example, the composition of the tall oil fatty acid A1 comprises 30% of oleic acid (=C18;1), 60% of linoleic acid (=C18;2) and other polyunsaturated fatty acids and 4% of saturated fatty acids.

. . . / . . .





PCT/FI 2003/000590

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

Claims 15-16 and 27 do not meet the requirements of Article 6 PCT in that the matter for which protection is sought is not clearly defined. The claims attempt to define the subject-matter in terms of the result to be achieved which merely amounts to a statement of the underlying problem. The claims fail to define the technical feature for which protection is being sought. The ester produced from the fatty acid composition could be any ester produced from the different fatty acids in the composition claimed and would include known esters.

The disclaimer "and said composition lacks a paraffine dispergent" has been introduced in the amended claim 1. This disclaimer is, however, unallowable under Articles 5 and 34(2)(b) for the reason that it adds subject-matter which goes beyond the disclosure of the international application as originally filed. Neither the disclaimer nor the subject-matter excluding it from the scope of the claim have a basis in the application as filed. A disclaimer may be allowable if it restores novelty by delimiting a claim against an accidental anticipation but not if it is relevant for the assessment of inventive step.

#### Supplemental Box

In case the space in any of the preceding boxes is not sufficient. Continuation of: Box V

It also comprises a paraffin dispergent which has the function of being a cold stabilizing additive. It has a cloud point of -27 degrees Celsius (see page 19, table 2, ex. V8).

D2 discloses a low-temperature stable fuel additive comprising a soybean oil having an increased concentration methyl esters of unsaturated fatty acids and having a cloud point of -16 degrees Celsius. A small concentration of methyl esters of saturated fatty acids and a high concentration of methyl octadecatrienoate (C18;3) was found to be of importance for the low-temperature properties of the additive (see page 1720, right column and page 1721, left column). Table 1 page 1720 discloses a composition of methyl esters of fatty acids composed of 4.3% C16;0, 1.3% of C18;0, 30.3% of C18;1, 49.6% of C18;1, 11.9% of C18;3 and 2% of methyl esters of other fatty acids.

D1 is considered to represent the closest prior art.

The subject-matter of the claimed invention differ from the fuel additive of D1 in that no paraffin dispergent has been added and the composition is based on purely fatty acids.

The problem to be solved is therefore to prepare a coldstable fuel additive composition which has a reduced potential interaction with other materials and limited separation.

It is not considered obvious to a person skilled in the art to use the teachings from D1 together with prior-art as specified in D2 in order to achieve a low-temperature stable fuel additive consisting of less than 3% saturated fatty acids, more than 10% C18;3 fatty acids, more than 30% C18;2 fatty acids and less than 35% C18;1 fatty acids.

Accordingly, the composition and process as claimed in claims 1-14, 17-26 and 28-32 are novel are considered to involve an Inventive step and has industrial applicability. The claims are however not allowable because of the disclaimer which has been introduced in the amended claim 1 (see Box VIII).



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#### Claims

- 1. A fatty acid composition characterized in that the composition contains an effective amount of fatty acids providing improved low temperature stability of the composition and the cloud point of said fatty acid composition is lower than -4 °C
- 2. A fatty acid composition according to claim 1 characterized in that said fatty acids are derived from plant sources.
- 3. A fatty acid composition according to claim 1 or 2 characterized in that said fatty acids are derived from tall oil or vegetable sources.
- 4. A fatty acid composition according to claim 1, 2 or 3 characterized in that the composition contains less than 3%, preferably less than 1.5 % saturated fatty acids and more than 90 %, preferably more than 95 %, more preferably more than 98 % unsaturated fatty acids.
- 5. A fatty acid composition according to claim 4 characterized in that the content of the C18;3 fatty acids is more than 10 %, preferably more than 15 %, more preferably more than 20 %, most preferably more than 25 %.
- 6. A fatty acid composition according to claim 5 characterized in that said C18;3 fatty acid is pinolenic acid.
- 7. A fatty acid composition according to claim 4 or 5 characterized in that the total content of C16;0, C17;0 and C18;0 fatty acids is less than 2.2 %, more preferably less than 1 %, most preferably less than 0.5 %,
- 8. A fatty acid composition according to claim 4 characterized in that the content of C20;0 fatty acids is less than 1 %, preferably less than 0.5 %.
- 9. A fatty acid composition according to claim 4 characterized in that the content of the resin acids is less than 5 %, preferably less than 2 %, more preferably less than 1 %.

- 10. A fatty acid composition according to claim 4 characterized in that the content of the C18;2 fatty acids is more than 30 %, preferably than 40 %, more preferably more than 50 %.
- 11. A fatty acid composition according to claim 4 characterized in that the content of the C18;1 fatty acids is less than 35 %, preferably less than 25 %, more preferably less than 20 %.
- 12. A fatty acid composition according to any one of the preceding claims characterized in that the composition contains more than 10 %, preferably more than 15 % C18;3 fatty acids and more than 30 %, preferably more than 40 % C18;2 fatty acids and less than 1 %, preferably less than 0.5 % C18;0 fatty acids and less than 2 %, preferably less than 1 % resin acids and the total of saturated fatty acids is less than 1.5 %.
- 13. A fatty acid composition according to any one of the preceding claims having a cloud point factor below 0.28 calculated according to the equation I  $Cp_{fac} = A \cdot [C16;0] + B \cdot [C17;0] + C \cdot [C18;0] + D \cdot [C20;0] + E \cdot [C18;1] + F \cdot [C18;2] + G \cdot [C18;3] + H \cdot [Resin]$ , wherein [C16;0] means concentration of C16 saturated fatty acids, [C17;0] means concentration of C17 saturated fatty acids, [C18;0] means concentration of C18 saturated fatty acids, [C20;0] means concentration of C20 saturated fatty acids, [C18;1] means concentration of C18 monounsaturated fatty acids, [C18;2] means concentration of C18 di-unsaturated fatty acids, [C18;3] means concentration of C18 tri-unsaturated fatty acids, [Resin] means concentration of C16 resin fatty acids and concentration factors are A = 6.2, B = 1.32, C = 34.5, D = 0.075, E = 1.3, E = -0.27, E = -5.1 and E = 1.3.
- 14. A fatty acid composition according to any one of the preceding claims characterized in that the cloud point of said fatty acid composition is lower than -6 °C, preferably lower than -10 °C, more preferably lower than -15 °C, most preferably lower than -20 °C.
- 15. An ester characterized in that said ester is produced from fatty acid composition according to claim 1.
- 16. A glycerol ester characterized in that said glycerol ester is produced from fatty acid composition according to claim 1.

17. A process for producing a fatty acid composition according to claim 1 characterized in that said process comprises the steps of

selecting a crude tall oil having a fatty acid concentration and type capable of providing low temperature stability

distilling said crude tall oil to provide a fatty acid composition containing an effective amount of tall oil fatty acids providing low temperature stability.

- 18. A process according to claim 17 characterized in that selecting includes blending of different crude tall oils.
- 19. A process according to claim 17 **characterized** in that said crude tall oil is derived from trees grown in a cold climate.
- 20. A process according to claim 17 characterized in that more than 4 % of the fatty acids of the crude tall oil are triple unsaturated fatty acids.
- 21. A process according to claim 17 characterized in that less than 1 % of the fatty acids of the crude tall oil are saturated fatty acids of C18 or greater.
- 22. A process according to claim 13 characterized in that less than 0.3 %, preferably less than 0.2 %, more preferably less than 0.1 % of the fatty acids of the crude tall oil are C18;0 fatty acids.
- 23. Use of a fatty acid composition according to claim 1 as a fuel additive.
- 24. Use of a fatty acid composition according to claim 1 as a lubricity improver in fuel.
- 25. Use according to claim 24 characterized in that said lubricity improver forms a part of a fuel additive package containing other additives.
- 26. Use according to claim 25 characterized in that said other additives are one or more of detergent, cold flow additive, antifoam, static dissipate and/or antioxidant.

- 27. Use of an ester according to claim 15 or 16 as a fuel additive.
- 28. A fuel additive comprising fatty acid composition according to claim 1 characterized in that it is stable at temperature below -4 °C.
- 29. A fuel containing a fatty acid additive **characterized** in that said fuel contains an effective amount of a low temperature stable fatty acid lubricity enhancer according to claim 1 which is stable at temperature below -4 °C.
- 30. A fuel according to claim 29 **characterized** in that said fuel is diesel, gas oil, gasoline, aviation fuel or kerosene, or a mixture thereof.
- 31. A fuel according to claim 29 characterized in that sulfur content of said fuel is less than 500 ppm, preferably less than 350 ppm, more preferably less than 50 ppm, more preferably less than 15 ppm, most preferably less than 10 ppm.
- 32. A fuel according to claim 29 characterized in that said fuel contains 10 to 1000 ppm of said fatty acid lubricity enhancer.